IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5591 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAYANKKUMAR RAMABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR UM SHASTRI for the Petitioners.

Ms.Harsha Devani, AGP, for Respondent No. 1

MR MUKESH R SHAH for Respondents No. 2-4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/01/2002

ORAL JUDGEMENT

1. Rule. Ms. Devani, learned AGP, appears for the State and waives service of rule. Mr.Mukesh R. Shah appears for respondents 2 to 4 and waives service of rule. With the consent of the parties, the matter is taken up for hearing today.

2. The petitioners herein were selected for appointment as Vidya Sahayaks and for the purpose of giving choice as desired by the candidates, a camp was organised. In the said camp, a candidate is required to be given his posting as per his choice of a particular Taluka and such posting is given as per availability of vacant posts in that Taluka. Such posting is given also considering the merit and percentage of marks obtained by such candidate during the selection process. It is argued on behalf of the petitioners that at the relevant time during the camp, they were not given the chance for giving option for posting at Lunavada, Khanpur, Godhra or Shahera Taluka and they were compelled to give options for other Talukas except the aforesaid four Talukas though the petitioners were willing to give option so far as the aforesaid four Talukas are concerned.

3. On behalf of respondents 2 to 4, Mr.M.R. Shah, learned Advocate, pointed out that it is no doubt true that the petitioners were not given options so far as the aforesaid four Talukas are concerned, but the reason for the same is that the Civil Judge (Senior Division), Godhra, has granted interim relief in a suit, i.e. Regular Civil Suit No.75 of 2001. By virtue of the said interim relief, respondents 2 to 4 were restrained from giving any appointment to any of the candidates so far as the aforesaid four Talukas are concerned. Therefore, there was no choice available with the Department except to offer other places in other Talukas. He submitted that, subsequently, the interim relief was also vacated after hearing the concerned parties. The grievance of the petitioners is that now since the interim relief is vacated, the Department should give them choice for posting at Lunavada, Khanpur, Godhra or Shahera Taluka. It is submitted that, at least, in the next camp, they should be called so that they can exercise the option, as, according to them, they were required to suffer only because of the interim relief which was prevailing at the relevant time.

4. In the facts and circumstances of the case, and especially when the petitioners were not given the benefit of option in the aforesaid Talukas because of the interim relief and since the petition is filed only on behalf of five persons, which is not likely to create any difficulty, I am of the opinion that as a special case, respondents 2 to 4 may allow the petitioners to take part in the next camp and may allow them to exercise their option since now the interim relief is vacated by the Civil Court. Mr.Shah has pointed out that the present

appointments are likely to be only in Shahera Taluka, as in other Talukas, no posts are vacant. It is clarified that if the petitioners are willing to opt for Shahera Taluka, their option may be taken into consideration in accordance with law as and when the new camp is held. It is clarified that in case either the present petitioners are not in a position to accept posting at Shahera Taluka or it is not possible for the authorities to give them posting in this behalf, they will not be allowed to participate in the future camp therafter. It is also clarified that this order is passed in the facts and circumstances of the present case and the present decision may not be treated as a precedent in future cases and this order is confined only to the present petitioners since they have approached the Court. The petitioners may be permitted to give their option for the next camp and that option can be only as regards Shahera Taluka. Mr.Pandya for the petitioners has also fairly agreed that the petitioners will not insist that they should be allowed to appear in the future camp and this order is passed in the peculiar facts and circumstances of the present case.

This petition is accordingly disposed of on the aforesaid lines. Rule is discharged with no order as to costs.

Direct service of this order is permitted.

19th January, 2002 (P.B. Majmudar, J.)

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(apj)